

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**ANNIE J. JOINER AND WILLIE E. JOINER**

**PLAINTIFF**

**V.**

**CIVIL ACTION NO.:3:17-cv-00061-MPM-JMV**

**PANOLA COUNTY COURTHOUSE BATESVILLE,  
PANOLA COUNTY SHERIFF'S DEPARTMENT;  
TVEPA BATESVILLE, MISSISSIPPI; AND  
PANOLA COUNTY COURTHOUSE SARDIS**

**DEFENDANTS**

**ORDER GRANTING MOTION TO STAY CASE**

HAVING COME BEFORE THE COURT on the Motion to Stay Case [11] Pending Ruling on Panola County's Dismiss, or, in the alternative, Motion for a More Definite Statement, which was filed by Panola County for and on behalf of the Panola County Courthouse Batesville, the Panola County Sheriff's Department and the Panola County Courthouse Sardis, and this Court being fully advised in the premises, does hereby GRANT said Motion [11], ORDER and ADJUDGE, as follows:

On April 10, 2017, Panola County filed its Motion to Dismiss [5], and Plaintiffs responded on April 17 and 19, 2017 [8 and 9]. Panola County filed its Reply Brief on April 24, 2017. [10]. Also on April 24, 2017, Panola County filed its Motion to Stay Case [11]. Plaintiffs filed their Expedited Response [13] on April 26, 2017. Although no reply has yet become due, the court is prepared to rule.

In its Motion to Dismiss, Panola County argues that Plaintiffs' cause of action against Panola County must be dismissed for insufficiency of service of process under F.R.C.P. 12(b)(5) because plaintiffs served "Panola County" by mail which is insufficient service under Federal and State law. Insufficient service of process is a jurisdictional defense. *See Flory v. U.S.*, 79 F.3d 24, 25-26 (5th

Cir. 1996). This jurisdictional defense mandates stay of discovery pursuant to Local Uniform Civil Rule 16(b)(3)(B) (the filing of "a motion asserting an immunity defense or jurisdictional defense stays the attorney conference and disclosure requirements and all discovery, pending the court's ruling on the motion, including any appeal." (emphasis added)).

While Plaintiffs oppose the relief requested by Defendants, the court does not find Plaintiffs' arguments persuasive in this instance because a stay of the case is appropriate under our court's local rules.

IT IS THEREFORE, ORDERED AND ADJUDGED THAT the entry of the Rule 16 Order, the attorney conference and disclosure requirements and all discovery not related to the pending motion are stayed, as is the Case Management Conference, pending a ruling on the Motion to Dismiss [5]. Counsel is directed to notify the undersigned Magistrate Judge within seven days of a ruling on the motion to dismiss. If any party desires to take jurisdictional-related discovery, they must file a motion for leave to do so within seven (7) days hereof, setting forth the type and scope of such discovery and an estimated time frame for constructing it. If any party objects to the motion for discovery, it shall file its objection within four (4) days following service of the motion for jurisdictional-related discovery.

SO ORDERED AND ADJUDGED this the 2nd day of May, 2017.

/s/ Jane M. Virden  
UNITED STATES MAGISTRATE JUDGE